



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

EPA-R08-OAR-2011-0833; FRL-9906-35-Region 8

Approval and Promulgation of Air Quality Implementation Plan; State of Colorado Second Ten-Year PM₁₀ Maintenance Plan for Telluride

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final Rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action approving State Implementation Plan (SIP) revisions submitted by the State of Colorado. On March 31, 2010, the designee of the Governor of Colorado submitted to EPA a revised maintenance plan for the Telluride area for the 24-hour National Ambient Air Quality Standards (NAAQS) for particulate matter with an aerodynamic diameter less than or equal to 10 microns (PM₁₀), and the SIP was adopted on November 19, 2009. As required by Clean Air Act (CAA) section 175A, this revised maintenance plan addresses maintenance of the PM₁₀ standard for a second 10-year period beyond the area's original redesignation to attainment for the PM₁₀ NAAQS. In addition, EPA is taking final action approving the revised maintenance plan's 2021 transportation conformity motor vehicle emissions budget for PM₁₀. Also, we are taking final action to exclude exceedances of the PM₁₀ NAAQS that were recorded at the Telluride PM₁₀ monitor on April 5, 2010 and April 16, 2013, from use in determining whether or not Telluride continues to attain the PM₁₀ NAAQS, because they meet the criteria for exceptional events caused by high wind natural events. This action is being taken under sections 110 and 175A of the CAA.

DATES: This final rule is effective **[Insert date 30 days after publication in the Federal Register].**

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-R08-OAR-2011-0833. All documents in the docket are listed on the www.regulations.gov website. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through www.regulations.gov or in hard copy at the Air Program, Environmental Protection Agency (EPA), Region 8, 1595 Wynkoop Street, Denver, Colorado 80202-1129. EPA requests that if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Crystal Ostigaard, Air Program, U.S.

Environmental Protection Agency, Region 8, Mailcode 8P-AR, 1595 Wynkoop Street, Denver, Colorado 80202-1129, (303) 312-6602, ostigaard.crystal@epa.gov.

SUPPLEMENTARY INFORMATION:

Definitions

For the purpose of this document, we are giving meaning to certain words or initials as follows:

- (i) The words or initials Act or CAA mean or refer to the Clean Air Act, unless the context indicates otherwise.

- (ii) The words Colorado and State mean or refer to the State of Colorado.
- (iii) The words EPA, we, us or our mean or refer to the United States Environmental Protection Agency.
- (iv) The initials MVEB mean or refer to motor vehicle emissions budget.
- (v) The initials NAAQS mean or refer to National Ambient Air Quality Standard.
- (vi) The initials NPR mean or refer to a notice of proposed rulemaking.
- (vii) The initials PM₁₀ mean or refer to particulate matter with an aerodynamic diameter of less than or equal to 10 micrometers (coarse particulate matter).
- (viii) The initials SIP mean or refer to State Implementation Plan.

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I. Background

On November 29, 2013, we published a notice of proposed rulemaking (NPR) in which we proposed to approve the revised Telluride PM₁₀ Maintenance Plan that Colorado submitted to us on March 31, 2010. We proposed to approve the revised maintenance plan because it demonstrates maintenance through 2021 as required by CAA section 175A(b), retains the control measures from the initial PM₁₀ maintenance plan that EPA approved in June of 2001, and meets other CAA requirements for a section 175A maintenance plan. We also proposed to exclude from use in determining whether or not Telluride continues to attain the 24-hour PM₁₀ NAAQS exceedances of the 24-hour PM₁₀ NAAQS that were recorded at the Telluride PM₁₀ monitor on

April 5, 2010 and April 16, 2013 because they meet the criteria for exceptional events caused by high wind natural events. In addition, we proposed to approve the revised maintenance plan's 2021 transportation conformity motor vehicle emissions budget (MVEB) for PM₁₀ of 1,108 lbs/day.

We received no comments regarding our proposed actions and are finalizing those actions as proposed. For further details regarding the bases for our actions, please see our NPR at 78 FR 71550 (November 29, 2013).

II. Final Action

We are approving the revised Telluride PM₁₀ Maintenance Plan that was submitted to us on March 31, 2010. We are approving the revised maintenance plan because it demonstrates maintenance through 2021 as required by CAA section 175A(b), retains the control measures from the initial PM₁₀ maintenance plan that EPA approved in June of 2001, and meets other CAA requirements for a section 175A maintenance plan. We are excluding from use in determining whether or not Telluride continues to attain the 24-hour PM₁₀ NAAQS exceedances of the 24-hour PM₁₀ NAAQS that were recorded at the Telluride PM₁₀ monitor on April 5, 2010 and April 16, 2013 because they meet the criteria for exceptional events caused by high wind natural events. We are also approving the revised maintenance plan's 2021 transportation conformity MVEB for PM₁₀ of 1,108 lbs/day.¹

III. Statutory and Executive Orders Review

¹ As noted in our NPR, the 2012 PM₁₀ MVEB of 10,001 lbs/day from the original PM₁₀ maintenance plan must continue to be used for analysis years 2012 through 2020 (as long as such years are within the timeframe of the transportation plan), unless the State elects to submit a SIP revision to revise the 2012 PM₁₀ MVEB and EPA approves the SIP revision. 78 FR 71553-71554.

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 USC 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 USC 3501 et seq.);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 USC 601 et seq.);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 USC 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[FEDERAL REGISTER OFFICE: insert date 60 days from date of publication of this document in the**

Federal Register]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Incorporation by reference, Particulate matter, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: January 27, 2014

Shaun L. McGrath
Regional Administrator
Region 8

40 CFR part 52 is amended to read as follows:

PART 52 - APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 et seq.

Subpart G – Colorado

2. Section 52.332 is amended by adding paragraph (s) to read as follows:

§52.332 Control strategy: Particulate Matter.

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(s) Revisions to the Colorado State Implementation Plan, PM₁₀ Revised Maintenance Plan for Telluride, as adopted by the Colorado Air Quality Control Commission on November 19, 2009, State effective on December 30, 2009, and submitted by the Governor's designee on March 31, 2010. The revised maintenance plan satisfies all applicable requirements of the Clean Air Act.

[FR Doc. 2014-02841 Filed 02/10/2014 at 8:45 am; Publication Date: 02/11/2014]